

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-20705

ALI DARWICH,

Defendant.

ORDER DENYING DEFENDANT'S MOTION TO QUASH

Before the court is a motion to quash filed on June 19, 2012, by pro se Defendant Ali Darwich. The Government responded to Defendant's arguments on June 26, 2012. Defendant argues that certain counts of his indictment should be dismissed because they allegedly violate the double jeopardy clause and were the result of selective prosecution. The court disagrees and will deny the motion.

First, Defendant's present federal charges, subsequent to a state conviction based upon conduct similar —or even identical— to that in the present case, do not violate the double jeopardy clause. *Abbate v. United States*, 359 U.S. 187, 194 (1959) (“[A] federal prosecution is not barred by a prior state prosecution of the same person for the same acts.”). Second, “the Government retains ‘broad discretion’ as to whom to prosecute.” *Wayte v. United States*, 470 U.S. 598, 607 (1985) (quoting *United States v. Goodwin*, 457 U.S. 368, 380, n. 11 (1982)). “[S]o long as the prosecutor has probable cause to believe that the accused committed an offense defined by statute, the decision whether or not to prosecute, and what charge to file or bring before a grand

jury, generally rests entirely in his discretion.” *Id.* (quoting *Bordenkircher v. Hayes*, 434 U.S. 357, 364 (1978)). Based even on the matters of public record, the Government’s decision to prosecute Defendant is well within its broad discretion.

Accordingly,

IT IS ORDERED that the Defendant’s June 19, 2012 motion to quash [Dkt. # 498] is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 17, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 17, 2012, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522